IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

J U D G M E N T

APPELLANTS (DEFENDANTS):

State of Rajasthan and anr.

VERSUS

RESPONDENT (PLAINTIFF):

Rewta Ram

S.B.Civil Regular First Appeal No.61/1989
against the order dt.30.11.1988 passed by
the Addl. District Judge, Raisinghnagar,
in Civil Original Case No.7/1983.

Date of Judgment: May 14, 2007

P R E S E N T

HON'BLE MR.JUSTICE DEO NARAYAN THANVI

Mr.V.R.Mehta, Additional Government Advocate.
None present, for the respondent.

BY THE COURT:

This is an appeal against the judgment and decree passed by the learned Additional District Judge, Raisinghnagar dated 30.11.1988 in Civil Original Suit No.7/1983. The respondent-

plaintiff Rewta Ram filed a suit for compensation of Rs.12,000/- for the loss of rice crop due to non-supply of water in Murabba No.225/472 Rakba 5.10 and Murabba No.223/473 Rakba No.13.16 in Chak No.16 A.S., which was auctioned by the Tehsildar, Colonisation in his favour. The original cultivator of these Murabbas was Mohan Lal son of Jagmal, which was taken over by the Tehsildar in his custody. It was later-on auctioned in favour of the respondent-plaintiff on 13.9.1982 on highest bid of Rs.19,000/- and 1/4th of this amount was deposited on the same day. The possession of the said Murabbas was delivered on 14.9.1982. The Tehsildar, Colonisation informed that the `parcha' regarding water supply of the aforesaid Murabbas be changed in the name of respondent-plaintiff but the defendant-State did not change it and, therefore, the water was not supplied resulting in loss of crop amounting to Rs.12,000/-.

In reply, the defendant-State stated that in the Barabandi Scheme under Section 5(o) of Chapter-V of Irrigation Schedule and Water Distribution Directory, Barabandi can be changed on 15th April and 15th October in a year and the defendant-State informed accordingly to the Tehsildar till then it was continued in the name of Mohanlal. According to the defendant-State, the water supply was continuing and there was no loss of crop. On pleading of the parties, the learned trial Judge framed eight

issues and examined plaintiff Rewta Ram (PW 1), Chuna Ram (PW 2) and Roop Singh Tehsildar (PW 3) and defendant produced Satish Chandra Executive Engineer (DW 1) and Ram Pratap Patwari (DW 2). Learned Judge after hearing the arguments, decreed the suit accordingly.

It has been contended by the learned Additional Government Advocate that supply of water was continuing and it could have been changed only from 15th April and 15th October but despite that the suit has wrongly been decreed and finding on issues No.2 to 4 alongwith other issues is contrary to the record of the case.

I have gone through the evidence led by the parties during the suit proceedings.

Roop Singh Tehsildar (PW 3) has specifically stated in his statement that respondent-plaintiff Rewta Ram moved an application on 22.9.82, 6.1.83 and 22.2.83 for releasing water to him in the Murabbas but the water was not supplied to him by the Executive Engineer, Anupgarh. They also wrote on 14.9.82 and two times further more. In all, they gave in writing three times and once the Assistant Colonisation Commissioner also wrote but the water was not supplied. No specific cross

examination has been made with regard to this version of the Tehsildar and in the cross examination, he has further stressed at his own that as per the record, the water was not supplied to the respondent-plaintiff. The version of the Tehsildar is fortified from the statement of the respondent-plaintiff Rewta Ram (P.W.1) and Chuna Ram (P.W.2), who is the neighbour of his field. The same is the statement of Sahi Ram (PW 4), who is also cultivating on this land. In his statement, Satish Chandra Executive Engineer (DW 1) has stated that as per the record, about two Murabbas were allotted in the name of Rewta ram on 13.9.1982 and on 15.10.1982, water slip was in the name of Tehsildar but in the cross examination, he has stated that he has no record that water was supplied to Rewta Ram. On the other hand, Ram Pratap Patwari (DW 2) has stated that water was being supplied in the two Murabbas but he has not specifically told neither in the chief nor in the cross examination that the water slip was issued in the name of respondent plaintiff Rewta Ram or he was taking water for his rice crop and in the last line of his cross examination, he has stated that the water was being used by Mohanlal and not by Rewta Ram. In this way, it is clear that due to non-supply of water, the loss was caused to the rice crop of respondent-plaintiff and there seems no illegality or irregularity in the finding of the learned trial Judge awarding compensation with interest to the respondent-plaintiff for the

loss of rice crop. No other point was argued.

Accordingly, the judgment and decree dated 30.11.88 passed by the learned Additional District Judge, Bikaner stands confirmed and the appeal is dismissed. Since nobody has appeared on behalf of the respondent, there will be no order as to cost.

(DEO NARAYAN THANVI), J.

RANKAWAT JK, PS